

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, . CRIMINAL NO. 12-CR-10226  
Plaintiff .  
v. . BOSTON, MASSACHUSETTS  
KOSTA et al, . JANUARY 2, 2013  
Defendant .  
.

TRANSCRIPT OF RELEASE HEARING  
BEFORE THE HONORABLE ROBERT B. COLLINGS  
UNITED STATES MAGISTRATE JUDGE

### APPEARANCES:

For the Government: UNITED STATES ATTORNEY'S OFFICE  
BY: Linda Ricci, AUSA  
One Courthouse Way, Suite 9200  
Boston, MA 02210  
617-748-3100  
[linda.ricci@usdoj.gov](mailto:linda.ricci@usdoj.gov)

For the defendant: Paul J. Garrity, Esq.  
14 Londonderry Road  
Londonderry, NH 03053  
603-434-4106  
[garritylaw@myfairpoint.net](mailto:garritylaw@myfairpoint.net)

Court Reporter:

Proceedings recorded by electronic sound recording,  
transcript produced by transcription service.

*Judy Bond Gonsalves*  
Certified Federal Court Transcriber  
508.984.7003

1 COURT CALLED INTO SESSION

2 (12:32:20 p.m.)

3 THE COURT: You may be seated.

4 THE CLERK: The case of United States versus John  
5 Kosta, Criminal Action No. 12-10226, will now be heard  
6 before this Court.

7 Will counsel please identify themselves for the  
8 record.

9 MS. RICCI: Good morning, Your Honor. Linda Ricci  
10 on behalf of the United States filling in for Assistant U.S.  
11 Attorney Leah Foley.

12 THE COURT: Good afternoon.

13 MR. GARRITY: Good afternoon, Your Honor. Paul  
14 Garrity for John Kosta.

15 THE COURT: Good afternoon.

16 The questions that have been brought up with the  
17 clerk, let me go over those.

18 With respect to Condition No. 3, the -- anytime  
19 he's going to leave the residence, it's part of the  
20 procedures of Pretrial Services that they have to be  
21 previously notified and notified when he's coming back, so  
22 that's why it's not explicitly in Paragraph 3, that it's  
23 part of the whole process, and so obviously he would not be  
24 able to leave the residence without notifying Pretrial  
25 Services in advance or else the alarm would go off. So that

**Judy Bond Gonsalves**  
**Certified Federal Court Transcriber**  
**508.984.7003**

1 was that one.

2 I am not going to put anything in witnesses until  
3 we know who the witnesses are, because otherwise it's too  
4 vague.

5 If you want to file a motion when Ms. Foley gets  
6 back asking to add conditions of release and Mr. Garrity  
7 could respond to it, I'd consider that, but I'm not going to  
8 add anything at this point in time.

9 With respect to the bonds, what I have done is I  
10 understand that with the bond in Mrs. Kosta's case and the  
11 \$400,000 bond in that I'm proposing for Mr. Kosta's case at  
12 5 Hemlock Circle, the two of them exceed by probably about  
13 75,000 the equity in the house. But here's where I'm coming  
14 from.

15 I want that if Mr. -- you know, if Mrs. Kosta  
16 flees, \$200,000 in the equity goes to the Government. If  
17 Mr. Kosta flees and Mrs. Kosta doesn't, \$400,000 equity in  
18 the house is forfeited to the Government. If they both  
19 flee, they'll take all the equity. It might not amount to  
20 \$600,000, but I think it was 527 what was on the papers.

21 But that was my thinking behind that. I do  
22 understand there's an overlap there.

23 MR. GARRITY: Just, just if I could clarify? I'm  
24 not the brightest one on this subject.

25 THE COURT: Well, I'm not either, so we're in the

***Judy Bond Gonsalves***  
**Certified Federal Court Transcriber**  
**508.984.7003**

1 same boat.

2 MR. GARRITY: So it would be 400,000 if Mr. Kosta  
3 leaves, 200 if Mrs. Kosta leaves, but the bond would be 400  
4 in total.

5 THE COURT: The bond for Mr. Kosta on that  
6 property --

7 No. The total bond is 600,000. It's 400,000 on  
8 Middleton and 200,000 on Lynn, so for Mr. Kosta the total  
9 bond is 600,000.

10 But I understand that if -- that if both of them  
11 flee, the Government's not going to be able to get the total  
12 amount out of Middleton, but that's the way I'm leaving it.

13 MR. GARRITY: But the property in Middleton -- if  
14 the equity remaining after Mrs. Kosta's bond is say 325 or  
15 350, --

16 THE COURT: Right.

17 MR. GARRITY: -- does the balance have to be  
18 secured by some other sort of --

19 THE COURT: No. No. No, if -- no, we treat them  
20 as separate defendants.

21 If for some reason she flees and 200,000 of the  
22 equity goes but Mr. Kosta remains, he'd be subject -- and if  
23 he left then after that, it would be the remaining equity in  
24 Hemlock Circle plus the 200 in Lynn.

25 MR. GARRITY: But just, Judge, I've got another

***Judy Bond Gonsalves***  
**Certified Federal Court Transcriber**  
**508.984.7003**

1 attorney working on the title part of it, because I don't  
2 know how to do this stuff.

3           But the bond that would be posted, would it be the  
4 balance of the equity?

5           THE COURT: No. The bond is going to be for  
6 \$600,000 for Mr. Kosta secured by the equity in both  
7 properties.

8           MR. GARRITY: Right.

9           THE COURT: Okay? Which would total \$600,000.

10          The bond for Mrs. Kosta is \$200,000 secured by the  
11 equity in Hemlock. Those are the two things.

12          As I say, what can be recovered if both of them  
13 flee very well may be less than the amount that is being  
14 pledged, but it also could be the value of the house has  
15 increased, and there's more equity in it than we know about.  
16 But that's the way I'm setting it up.

17          Is there a problem? Do you see a problem? If you  
18 do, let me know.

19          MR. GARRITY: Yeah, I apologize for being kind of  
20 dense on this.

21          Say if the balance of the equity does not equal  
22 400,000 --

23          THE COURT: Then they'd be liable for -- they'd be  
24 personally liable for the remainder.

25          MR. GARRITY: Okay. So the bond would be posted

**Judy Bond Gonsalves  
Certified Federal Court Transcriber  
508.984.7003**

1 just secured by the balance of the equity.

2 THE COURT: Right.

3 MR. GARRITY: Okay.

4 THE COURT: So in other words, they're on the hook  
5 for 600,000 with respect to John Kosta. If he flees, the  
6 equity of both properties --

7 For example, if they both flee, and there's not  
8 enough equity to cover the total amount, they'd be  
9 personally liable for remainder, but it's unsecured.

10 MR. GARRITY: I understand, Judge.

11 THE COURT: Okay.

12 MR. GARRITY: Thank you.

13 THE COURT: Okay. I understand the Government  
14 objects to my order setting conditions of release, and I  
15 understand that. You have the right to request that Judge  
16 Casper review it, and you're certainly free to do that. Let  
17 me say --

18 And if you want to get a transcript of remarks  
19 here. Or Mr. Garrity. The Government --

20 Because the Government's not going to particularly  
21 like what I say.

22 But if you want to get a transcript of this, use  
23 -- to be reviewed by Judge Casper, feel free to do that  
24 through --

25 Ms. Russo could tell you how to do that.

**Judy Bond Gonsalves  
Certified Federal Court Transcriber  
508.984.7003**

1           But basically, I've given this a great deal of  
2 thought. I've taken a lot of time as is obvious. But I am  
3 of the view that these conditions will reasonably assure the  
4 safety of the community and reasonably assure that Mr. Kosta  
5 will appear for all future proceedings.

6           I don't see these conditions -- I don't see him  
7 engaging in criminal conduct while these conditions are in  
8 place. He's severely restricted in his ability to move or  
9 do anything, and I just don't see there's any -- I think  
10 these conditions will reasonably assure that.

11           I think the more important question was  
12 appearance, and I take into account the following.

13           Now, I will say that this case involves a narcotic  
14 drug which is one of the things that I'm supposed to take  
15 into account. And also I will say that I think the  
16 Government's evidence is fairly strong, and I think it's  
17 likely Mr. Kosta's going to be convicted. So on those two  
18 indicia I think that the Government's -- supports the  
19 government's position.

20           However, I've looked at the record, and it appears  
21 that Mr. Kosta although having been subjected to some  
22 serious criminal charges in the past, seems to have always  
23 appeared. And looking at the -- we dug into the court  
24 records, and looking at defaults it looks like he was, you  
25 know, fair to respond to a summons or something of that

**Judy Bond Gonsalves**  
**Certified Federal Court Transcriber**  
**508.984.7003**

1 sort. It doesn't appear that he ever willfully failed to  
2 appear, so I'm taking that into account.

3 I'm also taking into account the fact that  
4 obviously he's very fortunate to have parents who have this  
5 amount of equity that they are able to put up -- real estate  
6 equity that they're able to put up to reasonably assure his  
7 appearance. If there were not a substantial financial  
8 component, I would not release him. But the fact that there  
9 is that amount of money that they're willing to put up in  
10 order to assure his appearance, I think that amount of money  
11 is sufficient to keep him here. I mean, basically if he  
12 fled, he'd wipe his parents out.

13 And I also take into account that -- although his  
14 wife is a co-defendant -- that there appears to be a very  
15 strong family bond here. He's got ten children. I think  
16 nine of them reside now with his parents where he and his  
17 wife will reside. I don't see him fleeing without the  
18 children, and I don't see him fleeing with the children.

19 Again, the statute doesn't require that these  
20 conditions guarantee his appearance. They only -- the  
21 statute requires that the conditions will reasonably assure  
22 his appearance. And based on, as I say, these factors which  
23 I've just mentioned, I find these conditions of release  
24 would, so I'm going to set them.

25 I understand that you need some time to do the

**Judy Bond Gonsalves**  
**Certified Federal Court Transcriber**  
**508.984.7003**

1 real estate, Mr. Garrity.

2 MR. GARRITY: That's right.

3 THE COURT: There won't be a release today. He  
4 won't be ordered released until you show me that you've  
5 complied with that.

6 With respect to the United States, what you would  
7 need to do if you don't want him released pending the review  
8 is to file a motion for a stay with me. The way the rules  
9 work, you file a motion for a stay with me. If I allow it,  
10 his release is stayed. If I deny it, you can ask Judge  
11 Casper for a stay. That's the procedure that you've got to  
12 use with respect to that. Okay?

13 MS. RICCI: Yes.

14 THE COURT: Okay. I'm not going to go over this  
15 in the detail that I did before, because Mr. and Mrs.  
16 Mihalakakis went through this drill with me before with  
17 respect to his -- with respect to Tamara Kosta, but let me  
18 at least go over conditions with John Kosta.

19 Would you stand, sir?

20 I'm going to set these conditions of release which  
21 you are subject to pending the ultimate result of this case,  
22 either conviction or acquittal, whichever it is; but these  
23 conditions are going to apply.

24 You're going to be living only at 5 Hemlock Circle  
25 in Middleton and no other location.

**Judy Bond Gonsalves  
Certified Federal Court Transcriber  
508.984.7003**

1           Do you understand that?

2           THE DEFENDANT: Yes.

3           THE COURT: You're released to the third-party  
4 custodian of your parents.

5           Do you understand that?

6           THE DEFENDANT: Yes.

7           THE COURT: And I'll explain to you a little bit  
8 more about third-party custodianship in a moment.

9           You'll be subject to electronic monitoring at the  
10 residence.

11          One thing. Do we need two land lines since there  
12 are two people --

13          PRETRIAL SERVICES: No, Your Honor. I asked Mr.  
14 Moriarty, and he said that he's able to install two  
15 electronic --

16          THE COURT: On one land line.

17          PRETRIAL SERVICES: Yes.

18          THE COURT: Okay, thanks.

19          You're going to be subject to electronic  
20 monitoring, and that means you can't leave the residence  
21 except for the purposes that I've listed here:

22          For the purpose of attending a  
23 previously-scheduled appearance in a court;

24          For the purpose of visiting your attorney who's  
25 representing you in a pending criminal matter;

***Judy Bond Gonsalves***  
**Certified Federal Court Transcriber**  
**508.984.7003**

1           For the purpose of seeking medical care;  
2           And for the purpose of performing administrative  
3 tasks for which your presence is required in connection with  
4 your children.

5           Those are the only reasons you can leave the  
6 house.

7           In order to leave the house for any of those  
8 purposes, you have to comply with all of the procedures of  
9 Pretrial Services which is going to mean letting them know  
10 ahead of time, getting their permission to leave, and  
11 they'll set forth certain conditions that you've got to meet  
12 including calling them when you return home. But they'll  
13 explain that to you fully, but you've got to comply with all  
14 of their procedures.

15           In addition, whenever you're out of the residence  
16 for any of these purposes, you have to be always in the  
17 actual physical presence of either your mother or your  
18 father or both. Do you understand that?

19           THE DEFENDANT: Yes.

20           THE COURT: Land line telephone at the residence  
21 with features removed that are incompatible. I assume  
22 that's been taken care of.

23           I'm going to issue a warrant for your arrest.  
24 It's going to be undated, but I'm going to sign it today.  
25 It will not be executed unless the alarm goes off indicating

**Judy Bond Gonsalves**  
**Certified Federal Court Transcriber**  
**508.984.7003**

1 you fled.

2           But I want you to know that if that alarm goes off  
3 and they notify me, I authorize them to just put the date on  
4 it, and that warrant is in effect.

5           Do you understand that?

6           THE DEFENDANT: Yes.

7           THE COURT: You're not to apply for a passport or  
8 any type of travel documents while on release.

9           Do any of your children have passports, Mr. Kosta?

10          THE DEFENDANT: No.

11          THE COURT: All right. Your travel's restricted  
12 to Essex, Middlesex and Suffolk Counties in Massachusetts.

13          You're not to possess any firearms, destructive  
14 devices or dangerous weapons, and there are to be none at  
15 the residence at which you're living.

16          You're not to use alcohol to excess, and shall not  
17 use or possess any narcotic controlled substances except by  
18 a legal prescription.

19          The day you're released, you're going to have to  
20 submit to a drug test for Pretrial Services and submit to a  
21 drug test any time they tell you that you need to.

22          Do you understand that?

23          THE DEFENDANT: Yes.

24          THE COURT: If you have any contact or if you're  
25 arrested or have any contact with law enforcement, you must

***Judy Bond Gonsalves***  
**Certified Federal Court Transcriber**  
**508.984.7003**

1 notify Pretrial Services within 24 hours.

2 Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: You're not to commit any crimes while  
5 on release including any crimes that prohibit obstruction of  
6 justice.

7 You're not to intimidate, threaten or injure any  
8 witnesses, intimidate threaten or injure any informants or  
9 do any act that obstructs the judicial process.

10 In addition, you're not to commit any other  
11 crimes.

12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: Your release is going to be secured by  
15 a \$400,000 bond secured by the equity at 5 Hemlock Circle  
16 (you and both of your parents will have to sign that bond.)  
17 and a 200,000 bond secured by the equity in the dwelling at  
18 361 Maple Street in Lynn, and the three of you -- you and  
19 your parents -- will have to sign that bond.

20 Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: And you're not to have any contact  
23 either directly or indirectly except through your attorney  
24 with any co-defendants other than your wife.

25 Do you understand that?

***Judy Bond Gonsalves***  
**Certified Federal Court Transcriber**  
**508.984.7003**

1                   THE DEFENDANT: Yes.

2                   THE COURT: Now, third-party custodianship is a  
3 concept that we have in the law which allows people who are  
4 not party to the lawsuit --

5                   The lawsuit's between the United States and you.  
6 Your parents are not party to this lawsuit, so that's why  
7 they're called third-party custodian.

8                   What they did is undertake a legal obligation to  
9 the Court voluntarily in connection with the case against  
10 you, and what they agree to do is to supervise you while  
11 you're on pretrial release and ensure that you comply with  
12 these conditions of release.

13                  Their loyalty is not to you; their loyalty is to  
14 the Court. But, of course, you benefit from them being  
15 third-party custodians, but they're not doing this legally  
16 -- I'm sure they're doing it for you, because you're their  
17 son. But legally they are agents of the Court acting for  
18 the Court.

19                  Now, this means a couple of things. That if you  
20 violate any of these conditions of release, they're  
21 obligated to call Pretrial Services and notify them, even  
22 though that may result in you going to jail.

23                  Do you understand that?

24                  THE DEFENDANT: Yes.

25                  THE COURT: That's an example of what I'm saying

***Judy Bond Gonsalves***  
**Certified Federal Court Transcriber**  
**508.984.7003**

1 where their loyalty is to the Court. Their obligation's to  
2 the Court, not to you.

3           And if they give you any directions in connection  
4 with these conditions of release, it's like the Court giving  
5 you directions, because they're acting as agents of the  
6 Court.

7           Do you understand that?

8           THE DEFENDANT: Yes.

9           THE COURT: Do you agree to accept them as  
10 third-party custodians knowing the role that they are  
11 required to take?

12           THE DEFENDANT: I do.

13           THE COURT: Okay. Do you have any questions about  
14 these conditions?

15           THE DEFENDANT: I don't.

16           THE COURT: All right. You may be seated.

17           THE DEFENDANT: Yes.

18           THE COURT: All right. If Mr. and Mrs.  
19 Mihalakakis would stand, please?

20           As I say, I'm not going to go through this in  
21 detail with you, because we did this when Mrs. Kosta was  
22 released, but I just want to make sure you understand that  
23 you're going to now be third-party custodians not only of  
24 Mrs. Kosta but of Mr. Kosta.

25           Do you understand that?

***Judy Bond Gonsalves***  
**Certified Federal Court Transcriber**  
**508.984.7003**

1 MRS. MIHALAKAKIS: Yes.

2 THE COURT: And do you understand that as  
3 third-party custodians, you're required to report any  
4 violations of these conditions that occur, even though that  
5 may end up with Mr. Kosta going back to jail?

6 Do you understand that?

7 MRS. MIHALAKAKIS: Yes.

8 THE COURT: Do you agree to do that?

9 MRS. MIHALAKAKIS: Yes.

10 THE COURT: Now, with respect to the real estate,  
11 basically you're already obligated 200,000 of the equity in  
12 the property on Hemlock Circle is encumbered as part of Mrs.  
13 Kosta's release.

14 So with respect to Mr. Kosta's release, the amount  
15 is going to be 200,000 on the Lynn property and 400,000 on  
16 the Hemlock Circle property.

17 And basically I take it you understood what I said  
18 with Mr. Garrity. If Mrs. Kosta flees or Mr. Kosta stays  
19 home, you lose 200 in the equity in Hemlock Circle. If Mrs.  
20 Kosta stays and Mr. Kosta flees, you lose 400,000 of the  
21 equity in Hemlock Circle and 200,000 of the equity in the  
22 Lynn property. If they both flee, basically you lose the  
23 200,000 equity in the Lynn property and you lose the entire  
24 equity probably in the Hemlock Circle property. And if the  
25 equity in the Hemlock Circle property doesn't come up to the

**Judy Bond Gonsalves**  
**Certified Federal Court Transcriber**  
**508.984.7003**

1 amount of the bond, then you'll be personally liable for  
2 that amount.

3 Mr. Mihalakakis, do you understand what I've said?

4 MR. MIHALAKAKIS: Yes.

5 THE COURT: And do you agree to put the property  
6 up in these circumstances?

7 MR. MIHALAKAKIS: Yes.

8 THE COURT: And Mrs. Mihalakakis, do you  
9 understand?

10 MRS. MIHALAKAKIS: Yes.

11 THE COURT: And do you agree to put the property  
12 up?

13 MRS. MIHALAKAKIS: Yes.

14 THE COURT: Okay. Any questions?

15 All right. Thanks very much. You may be seated.

16 Yes, ma'am?

17 MS. RICCI: Your Honor, if I may, I just --  
18 because I hadn't spoken earlier, I just wanted to --

19 The Government does object to the entry of the  
20 order setting conditions of release. Understanding what the  
21 Court --

22 THE COURT: Big surprise.

23 MS. RICCI: -- had earlier --

24 THE COURT: I knew that.

25 MS. RICCI: I just wanted to put it on the record,

***Judy Bond Gonsalves***  
**Certified Federal Court Transcriber**  
**508.984.7003**

1 Your Honor.

2 I understand that the Court had inquired earlier  
3 with the parties as to any proposed changes, --

4 THE COURT: Right. Right.

5 MS. RICCI: -- and then you had discussed those.

6 THE COURT: Your rights are saved.

7 MS. RICCI: But I just wanted to put on the record  
8 that we --

9 THE COURT: You object.

10 MS. RICCI: And then I also --

11 Procedurally, Your Honor, I had intended to move  
12 for a stay of the entry of the Court's order today, but I  
13 understand from the Court's comments you require that it be  
14 in writing.

15 THE COURT: Exactly.

16 MS. RICCI: Okay.

17 THE COURT: Nothing's going to happen today, --

18 MS. RICCI: Practically speaking.

19 THE COURT: -- because Mr. Garrity has to do some  
20 things with respect to the real estate and notify the clerk.  
21 When that's all done, and file the necessary papers.

22 MS. RICCI: Okay. And then in terms of -- if I  
23 might just --

24 THE COURT: Sure.

25 MS. RICCI: -- for clarification?

**Judy Bond Gonsalves  
Certified Federal Court Transcriber  
508.984.7003**

1                   On Paragraph 7 the travel restriction? The  
2 Middlesex component of that, I take it, relates only to  
3 travel, because I reviewed a quick map of the state, and it  
4 looks to me as though to travel from Essex to Suffolk you  
5 may have to travel through Middlesex.

6                   THE COURT: Right.

7                   MS. RICCI: But based on my conversation with Mr.  
8 Garrity, there's no other reason that he would need to  
9 travel to Middlesex County.

10                  THE COURT: No.

11                  MS. RICCI: Okay --

12                  THE COURT: Well, I don't know. He might have a  
13 doctor in Middlesex County.

14                  MS. RICCI: If he had a doctor's appointment or  
15 something on that nature.

16                  In terms of the bond, I'm not -- if in fact -- I'm  
17 not -- does the Court -- is it the case --

18                  Does the Court know that he can have the  
19 properties secure both mortgages?

20                  THE COURT: Well, they're putting mortgages on  
21 both properties.

22                  MS. RICCI: Okay. Okay.

23                  THE COURT: And there'll be two mortgages on the  
24 Hemlock property: The one for Mrs. Kosta and the one for  
25 him.

*Judy Bond Gonsalves*  
**Certified Federal Court Transcriber**  
**508.984.7003**

1                   So I'm basically encumbering all the -- with  
2 respect to both of them, encumbering all of the real estate  
3 that Mr. and Mrs. Mihalakakis own, which is what my purpose  
4 was.

5                   MS. RICCI: Okay. If that were not able to  
6 happen, then I was going to suggest -- the Government would  
7 suggest a cash component to make up the difference.

8                   THE COURT: How would that not happen?

9                   MS. RICCI: I just don't know technically speaking  
10 whether it can be recorded in the way the Court's proposed.

11                  THE COURT: You can put mortgages on -- you can  
12 put mortgages on a property and then -- you don't necessary  
13 --

14                  I mean, usually banks wouldn't put a mortgage on a  
15 property if it exceeds the fair market valuation, but  
16 there's no prohibition to putting mortgages on a property  
17 even though the amount of the mortgage exceeds the fair  
18 market value.

19                  MS. RICCI: As respect to Paragraph 14, the  
20 Government will file a motion seeking an entry of a  
21 no-contact order with particularly-named witnesses.

22                  THE COURT: Okay. What I'll do with that is see  
23 what Mr. Garrity says about it. If there's no objection,  
24 I'll issue an amended order.

25                  MS. RICCI: And I'll also order the transcript

**Judy Bond Gonsalves**  
**Certified Federal Court Transcriber**  
**508.984.7003**

1 from the earlier detention hearing and likely today's  
2 session.

3 THE COURT: Okay.

4 MS. RICCI: Thank you, Your Honor.

5 THE COURT: Thank you very much.

6 Anything further from the Government?

7 MS. RICCI: No, Your Honor.

8 THE COURT: Anything further, Mr. Garrity?

9 MR. GARRITY: Judge, just Paragraph 13. I just  
10 want to make sure I understand mechanically.

11 THE COURT: I guess I'm causing more trouble in  
12 this.

13 MR. GARRITY: The bond is 400,000 to be secured by  
14 the remaining equity. Is that what the Court meant?

15 THE COURT: Right. Basically. Basically Mr. John  
16 Kosta and his parents signed two bonds: one for 400,000 and  
17 one for 200,000. Those are bonds that obligate them to pay  
18 that amount of money should he fail to appear. They're  
19 secured by 200,000 -- the two bonds are secured by 200,000  
20 in the Lynn property and 400,000 in the Hemlock Circle  
21 property.

22 If in fact -- now, it very well --

23 As I indicated, it may be that the amount of the  
24 -- if both of them flee, that the amount of the equity does  
25 not come up to in the Hemlock Circle property the 600,000,

**Judy Bond Gonsalves**  
**Certified Federal Court Transcriber**  
**508.984.7003**

1 but it's close. The assessed valuation is 5.7. But if it  
2 didn't, the three of them would be personally liable for the  
3 remainder.

4 MR. GARRITY: I understand it, Judge. The only  
5 reason I ask is the person who's doing the title work --

6 THE COURT: Well, the person who's doing the title  
7 work will probably come up with a mortgage on the -- the  
8 mortgage that's already on file for the Hemlock Circle  
9 property for Mrs. Kosta.

10 MR. GARRITY: Right.

11 THE COURT: But there shouldn't be any other  
12 encumbrance.

13 MR. GARRITY: Right.

14 THE COURT: And Lynn, I assume, is good title.

15 MR. GARRITY: Judge, I ask these, because I'm --

16 THE COURT: No, that's all right. I hope I'm  
17 answering them.

18 MR. GARRITY: I think you have.

19 But if the amount of the equity is, say, 327, --

20 THE COURT: Yep.

21 MR. GARRITY: -- there shouldn't be any problem  
22 with that --

23 THE COURT: I don't think so. I think you can --

24 As I say, a bank wouldn't give you a mortgage if  
25 the amount of your mortgage is more than the assessed

1 valuation or the appraised valuation, but I don't think  
2 there's any prohibition in real estate law from putting a  
3 mortgage on a property, even though the mortgage exceeds the  
4 value of the property. I just don't think --

5 If it's a problem, let me know, and I'll work with  
6 you on it.

7 MR. GARRITY: Okay.

8 THE COURT: But that's -- that was the philosophy  
9 behind what I was doing, and it's on the basis of the fact  
10 that that much money being put up, that I -- it's one of the  
11 factors that I indicated suggests to me that these  
12 conditions will reasonably assure his appearance.

13 MR. GARRITY: And I guess I didn't ask the  
14 question the right way.

15 Would the 400,000 bond cause problems with 327  
16 mortgage? I guess maybe that's the way --

17 THE COURT: With what?

18 MR. GARRITY: With the amount of the bond 400,000  
19 --

20 THE COURT: No. The mortgage is going to be for  
21 400,000.

22 MR. GARRITY: That's where I -- that's where I  
23 kind of go off the rails with this.

24 THE COURT: All right. Let me -- if I'm wrong on  
25 this, contact your lawyer and let me know. Because as I

**Judy Bond Gonsalves**  
**Certified Federal Court Transcriber**  
**508.984.7003**

1 say, I'm not that much up on real estate law either.

2           But I don't think there's any prohibition of  
3 putting mortgages on a property even though the amount --  
4 total amount of the mortgages exceed the either assessed or  
5 appraised valuation. So that's why I'm saying that you can  
6 have the original 200,000 mortgage of Mrs. Kosta on the  
7 property and the \$400,000 mortgage for Mr. Kosta on the same  
8 property. I don't see that as a problem.

9           If it is a problem, please let me know.

10          MR. GARRITY: I will.

11          THE COURT: So that gets the mortgages on the  
12 property.

13           Now, what would happen if, in fact, there's a  
14 flight? If Mrs. Kosta flees, 200,000 of the equity is taken  
15 for the Government. If Mr. Kosta flees, 400,000 of the  
16 equity is taken and 200,000 in Lynn. If they both flee,  
17 basically the 200,000 from Lynn is taken, and they can take  
18 up to 600,000 out of the equity in Hemlock Circle.

19           What I'm saying is I don't think that what can  
20 happen if they flee has an affect on the ability to record  
21 the mortgages that I've set. But if it does, let me know,  
22 and I'll work with you on it. Okay?

23          MR. GARRITY: Thank you.

24          THE COURT: All right. The defendant's remanded  
25 to the custody of the United States Marshals.

***Judy Bond Gonsalves***  
**Certified Federal Court Transcriber**  
**508.984.7003**

1           And Mr. Garrity, if you'd be sure and let us know  
2 when you've done everything you need to do.

3           MR. GARRITY: I will.

4           THE COURT: And I'll await the Government's motion  
5 for a stay which you will have the opportunity to appear --  
6 I'll probably put you on a little short lease on opposing  
7 that.

8           MR. GARRITY: That's fine.

9           THE COURT: But we'll wait until we get those  
10 files.

11          Okay. Thanks very much.

12          MR. GARRITY: Thank you.

13          THE CLERK: All rise.

14          (Court adjourned at 12:58:53.)

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATION

2 I, Judy Bond Gonsalves, a court approved transcriber,  
3 certify that the foregoing is a correct transcript from the  
4 official electronic sound recording of the proceedings in  
5 the above-entitled matter.

6

7



8 Judy Bond Gonsalves

February 11, 2013

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

*Judy Bond Gonsalves*  
**Certified Federal Court Transcriber**  
**508.984.7003**